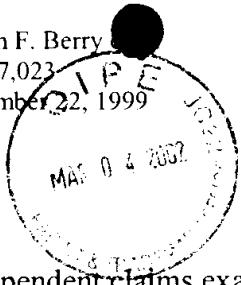


Applicant : Martin F. Berry
Serial No. : 09/447,023
Filed : November 22, 1999
Page : 2



Attorney's Docket No.: 00414-046001

RECEIVED
MAR 08 2002
TC 1700

REMARKS

The independent claims examined in the office action are claims 70 and 97.

Claim 70 recites a cranberry food product that is a blended juice. The food product includes a juice component derived from cranberries that has a juice anthocyanin content of about 10 mg/100 ml or less and a component selected from another juice component, water, sweetener or acid.

Claim 97 recites a cranberry food product that is a blended juice. The food product includes a juice component derived from cranberries that has a juice anthocyanin content of about 10 mg/100 ml or less, another juice component, and a sweetener.

As evident, these claims relate to blended juices including a juice component derived from cranberries having a juice anthocyanin content of about 10 mg/100ml or less. Dependent claims recite other important features, including still lower anthocyanin levels. An advantage of embodiments of these inventions is that the juice component contributes little color to the blended juice. Of course, the blended juices can have an anthocyanin content much less than 10mg/100ml because they are diluted with other components of the blend, such as water and sweetener. An example of a blended juice using a low color juice component from cranberries is provided in the specification at pages 10-12. In that example, the blended juice is about 16% juice component, which is blended with sweetener and water. Using a juice component having an anthocyanin content of about 10mg/100ml or less, this blend would have an anthocyanin content of about 1.6 mg/100ml or less. In the example, no other colorant is added and thus the blended juice exhibits a light color.

Prior to this response, claims 70 and 97 were rejected as obvious over Chiriboga et al. Applicants traverse. Chiriboga et al. does not describe a blended juice having a juice component with an anthocyanin content of about 10 mg/100ml or less, as claimed. The rejection points to Table 1 as showing an anthocyanin content of 10mg/100ml or less. But the data in Table 1 refers not to the juice component but rather to experimental batches of cranberry juice cocktail (CJC). As described on page 465, right and middle columns, the experimental CJC's were formulated by mixing press juices from dark and relatively pale cranberries, with water and sweetener. But neither the anthocyanin content of the press juices is reported.

Nor is there any suggestion in Chiriboga et al. to make the blended juices applicants'

Applicant : Martin F. Berry e
Serial No. : 09/447,023
Filed : November 22, 1999
Page : 3

Att 's Docket No.: 00414-046001

claim, using a juice component having an anthocyanin content of about 10 mg/100ml or less. The objective in Chiriboga et al. is to meet the color standard for CJC by mixing juice from lower grade, somewhat off-color "pale" berries with juice from high color grade berries and then make up for any color deficiency by adding anthocyanin powder extract. As discussed in applicants' specification, it was, of course, known to mix lower color grade berries with higher color grade berries to meet a red color standard (see specification pages 1-2). The objective, as set forth as well in Chiriboga et al., has been to achieve the natural, deep red color associated with cranberries. As a result, the mixing of low color grade berry lots is guided by the motivation to provide a juice that is still characteristically red. This clearly teaches away from applicants' inventions directed to a blended juice including a juice component derived from cranberries having an anthocyanin content of about 10mg/100ml or less, and the advantage of embodiments, which is the lack of the characteristic deep red color associated with cranberries.

As a result, Chiriboga neither teaches nor suggests the inventions of claims 70 and 97.

New claims 107-109 have been added.

Allowance is requested.

Enclosed is a \$110 check the Petition for Extension of Time fee. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: _____


John J. Gagel
Reg. No. 33,499

Fish & Richardson P.C.
225 Franklin Street
Boston, Massachusetts 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906